

**From:** Matthew Schmidt  
**To:** Microsoft ATR  
**Date:** 1/23/02 6:00pm  
**Subject:** Microsoft Settlement

I think there are serious flaws with the Microsoft settlement as currently proposed by the government and Microsoft.

While I feel that more drastic measures are fully appropriate (like opening Windows source code and Office file formats), there remain problems even given the more moderate type of conduct remedies included in this order. Along those lines, the proposal by the dissenting states is far more effective.

Section III.H, for instance, allows users to remove Microsoft Middleware from the computer. It would be more reasonable to have Microsoft sell a version of Windows without the middleware, giving consumers a choice in the matter and allowing competition in the various areas. Once Microsoft gets a piece of software into Windows, there is little reason for people to go out and buy a separate equivalent piece--even if the independent software would be better value.

Also, section IV calls for a technical committee to oversee Microsoft's conduct. The TC has very little power to force compliance on their own, however. They are also prohibited from testifying in court--excluding from deliberation the most qualified witnesses. The TC must have the power to fine, and preferably also the right to testify in court.

Finally, there is an expiration date of five years on the agreement. None of the conduct required of Microsoft is onerous or unusual--it describes the bare minimum (if that) of fair and responsible behavior. The expiration date--if included at all--should be significantly farther out.

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Pluralitas non est ponenda sine neccesitate.  
William of Occam  
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